Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: DeVore, et al. Analyst: Angela Raygoza Bill Number: AB 1759

Related Bills: See Prior Analysis Telephone: 845-7814 Amended Date: May 19, 2008

Attorney: Patrick Kusiak Sponsor: ____________

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/2007 Calendar Year Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura County Wildfires

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ____________________.

____ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended ____________________.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ____________________.

_X_ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS introduced January 7, 2008, STILL APPLIES.

_X_ OTHER – See comments below.

SUMMARY

This bill would allow special tax treatment, called disaster loss treatment, for losses sustained as a result of the 2007 Southern California wildfires.

This analysis will not address the bill's changes to the Property Tax Law, as they do not impact the department or state income tax revenue.

SUMMARY OF AMENDMENTS

The May 19, 2008, amendments would add the Butler Two Wildfire that occurred in San Bernardino County on September 15, 2007, to the list of specified disasters. Also, this bill would add the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties, beginning October 21, 2007, to the current list of specified disasters under the Personal Income Tax (PIT) Law and the Corporation Tax Law (CTL). These amendments would also remove the term “proclamation of a state of emergency” and replace it with “disaster proclamations.”

Board Position:			Asst. Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Patrice Gau-Johnson	6/10/08
____ N	____ OUA	_X_ PENDING		

As a result of the amendments, the “Program Background,” “This Bill,” and “Economic Impact” discussions, as provided in the department’s analysis of the bill as introduced January 7, 2008, have been revised. Except for these amended discussions provided in this analysis, the remainder of the department's analysis of the bill as introduced January 7, 2008, still applies.

PROGRAM BACKGROUND

Governor Arnold Schwarzenegger proclaimed on September 15, 2007, a state of emergency declaring the Butler Two Wildfire that occurred in San Bernardino to be a state of disaster. President George W. Bush did not declare the Butler Two Wildfire as a federal disaster.

Governor Arnold Schwarzenegger proclaimed on October 21, 2007, a state of emergency declaring the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties to be a state disaster. On October 23, 2007, President George W. Bush proclaimed the same counties to be a federal disaster.

ANALYSIS

<u>THIS BILL</u>

This bill would add the Butler Two Wildfire that occurred in San Bernardino County on September 15, 2007, and ended September 20, 2007, to the list of specified disasters. This bill would also add the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties, beginning October 21, 2007, to the current list of specified disasters under PIT and CTL.

As a Governor-proclaimed disaster, this bill would allow a taxpayer to elect to file an amended return for the prior taxable year and allow special carry forward treatment for up to fifteen taxable years for losses sustained as result of the Butler Two and 2007 Southern California Wildfires. The same carry forward rule applies to individual non-business losses if the total losses for the year exceed 10% of the individual’s federal adjusted gross income.

ECONOMIC IMPACT

This bill would have the following revenue impact:

Revenue Analysis for AB 1759 As Introduced January 7, 2008 Effective for Tax Years BOA January 7, 2008				
	2007-08	2008-09	2009-10	Cumulative Loss
Disaster Relief	Loss < $250,000	Gain < $150,000	Gain < $150,000	Loss < $150,000

This analysis does not consider any possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The most current data from the Office of Emergency Services (OES) indicates a total of 2,180 structures were destroyed and 482 were damaged as a result of the October, 2007, Southern California Wildfires (total structures = 2,662). Research conducted suggests approximately $1.6 billion of insured property losses were sustained as a result of the targeted wildfires and another $400 million was uninsured for a total of $2 billion in damages. It is estimated that 90% of uninsured losses would exceed the minimum adjusted gross income threshold resulting in total casualty loss deduction of $360 million ($400 million x 90% = $360 million). The average affected taxpayer would have a potential casualty loss of $135,000 ($360 million ÷ $2,662 structures). Current California tax law allows taxpayers with fire losses to amend their 2006 tax returns until April 15, 2008; this bill extends the filing period until October 15, 2008. It is likely that most taxpayers affected by the fires will have filed an amended return claiming their fire losses by April 15th to receive an accelerated refund.

Based on expectations about taxpayer filing behavior, it is assumed that 1% of the value of casualty losses would be filed on an amended 2006 return and that one-half of those losses could be used to offset reported income. The revenue loss accrued to 2007-08 would be negligible, less than $250,000 ($360 million x .01 x .50 x .09 marginal rate = $162,000.) Because these losses were used on the amended 2006 return, they would not be available to offset income in later years. Therefore, for 2008-09 and 2009-10, there would be insignificant revenue gains of less than $150,000 in each year, resulting in an insignificant net revenue loss for the 3-year period of less than $150,000.

Currently, affected taxpayers have ten years to deduct their disaster losses. Given that the average casualty loss for the fires is estimated to be $135,000, it is unlikely that many taxpayers will have losses remaining after ten years. Therefore, the long-term revenue effect of the additional five years of carryover is assumed to be insignificant.

The revenue impact for the Butler Two wildfires is insignificant.

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